(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1757 /2001.

PETITIONER : Krishna Kumar Arvind Kumar
Through : Krishna Kumar son of Khajanchi Chand Agrawal, resident of Ambikapur.

P. R. No. 1887/01
Presented by Shri Santosh Gupta
dated 12.9.01

V E R S U S

RESPONDENTS : 1. State Transport Appellate Tribunal, Moti Mahal, Gwalior(MP)
2. R.T.A., Bilaspur (CG).
3. Dinesh Kumar Agrawal
S/o Om Prakash Agrawal,
R/o Main Road, Lakhanpur, Surguja (C.G.).

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA :

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 1757/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-3-2002 Shri Sudhir Rawat, Advocare for the petitioner. Shri Sanjay K. Agrawal, Dy. Advocate General for the respondents No. 1 and 2. Shri S.K. Sinha, Sr. Advocate with Ku. Pratha Gosal, Advocate for respondent No. 3. Heard. The petitioner by this petition has challenged the order passed by the State Transport Appellate Tribunal dated 21-6-2001 passed in revision No. 515/2002 and prays for quashing the order of the R.T.A., Bilaspur dated 13-6-2000 in respect of grant of regular permit to the respondent No. 3 on the route Ambikapur to Keshma via Udaypur and Kedma. Learned counsel for the petitioner submitted that there is no notification under Section 68(3)(c-a) of the Motor Vehicles Act as amended in 1994. Learned counsel for the respondent pointed out that so far as this petition is concerned, Annexure P-1 goes to show that the petitioner Krishna Kumar Arvind Kumar has not taken this objection and the objection was taken by Smt. Devi Prabha Singh. Devi Prabha Singh has not filed any petition. Shri Sinha also submitted that this point regarding notification was not specifically raised before	

[पीछे देखिये

XI-HC-22

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the R.T.A.

Counsel for the petitioner submitted that before the S.T.A.T., objection was taken and he read the relevant portion of the order Annexure R-3.

Learned Sr. Advocate as well as learned Dy. Advocate General appearing for the respondents submitted that the question is covered by a decision of High Court of M.P. reported in 2001(3) M.P.H.T. 349 (M.P.S.R.T.C. -v- State Transport Appellate Tribunal, Gwalior and others.)

Paras 12, 13, 14 and 15 of the said judgment are relevant and quoted below :-

> "12. Section 68 refers to the Transport Authorities Sub-section (1) of Section 68 provides that the State Government shall by notification in the official Gazette, constitute for the State a State Transport Transport Authority to exercise and discharge the powers and functions specified in Sub-section (3), and shall in like manner constitute Regional Transport Authorities to exercise and discharge through out such areas as may be specified in the notification in respect of each Regional Transport Authority.
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> 13. Thus, if a notification has been issued by the State Government for exercising its powers to State Transport Authority or Regional Transport Authority then both the Authorities

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 1757/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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can perform the functions mentioned in sub-section (3) of Section 68 of the Act. From the combined reading of Section 68(1) with sub-Section (3) of Section 68, it is apparent that the power for formulation of route has been vested by virtue of the notification of the Government under Section 68 (1) with State Transport Authority and Regional Transport Authority. Therefore, the contention of the petitioner that the route can only be formulated by State Government cannot be accepted, as Sub-section (3) of Section 68 has to be read with Section 68(1) of the Act. On bare reading of sub-section (1) of Section 68 it is amply clear that the route can be framed by every Regional Transport Authority throughout their region for which they are appointed and State Transport Authority can formulate the rutes throught the State. Therefore, power to formulate route within the region vests with the Regional Transport Authority and within the State it vests with the State Transport Authority.

14. Sub-section (3) of Section 68 of the Act cannot be read ~~xxxx~~ independently of Section 68(1) of the Act. Sub-section (1) of Section 68 provides that the State Government shall, by notification in the Official Gazette, constitute for the State a State Transport Authority to exercise and discharge the powers and

[पीछे देखिये

(26)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No 1757/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

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functions specified in sub-section (3), and shall in like manner constitute Regionak Transport Authorities to exercise and discharge throughout such areas as may be specified in the notification in respect of each Regiona Transport Authority; the powers and functions conferred by or under this Chapter on such Authorities. Therefore, any act done under Section 68(3) is under the powers conferred by the State Government upon the State Transport Authority or Regional Transport Authority. Sub-clause (c-a) of sub-section (3) of Section 68 is part of sub-section (3) of Section 68. Sub-clause (c-a) provides that the Government should formulate routes for plying stage carriages. Reading this provision in consonance with Section 68(1) the State Government is empowered to confer the powers for discharging its functions upon the authorities, namely, State Transport Authority or Regional Transport Authority. Thus, question of formulating the route by the Government would mean the formulation of route by the Authorities conferred with the powers by the State Government. If the State Government has delegated powers to the Authorities then the powers exercised by the Authorities shall be deemed to be performed by the State Government.

15. Even otherwise, from the object of amendment

[पीछे देखिये

29

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 1757/2001

मामला क्रमांक ..... सन् 200

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of Act No. 54 of 1994 it is apparently clear that the Act is amended with an intention for liberalisation of scheme and removing the hurdle for grant of stage carriage permits. Considering the intention and the object of Amending Act it is clear that the work "State Government" used in clause 3(c-a) would mean the Authority conferred with the powers to exercise the powers of the State Government."

In view of the judgment of the M.P. High Court as reproduced hereinabove, the question has already been determined and it has been held that question of formulating the route by the Government would mean the formulation of route by the Authorities conferred with the powers by the State Government. If the State Government has delegated its powers to the Authorities then the powers exercised by the authorities shall be deemed to be performed by the State Governement.

Having considered the facts and circumstances of the case, material on record and in view of what has been stated hereinabove, in the opinion of this Court, no case warranting interference has been made out in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

The petition fails and is dismissed.

Sd/-
Fakhruddin
Judge

athak/-